

To: Cally Younger[cyounger@blm.gov]
Cc: nhaskett@blm.gov[nhaskett@blm.gov]; pjarnecke@blm.gov[pjarnecke@blm.gov]
From: Steve Tryon
Sent: 2017-12-05T13:01:10-05:00
Importance: Normal
Subject: Re: Presidential Proclamation Modifying the Bears Ears National Monument
Received: 2017-12-05T13:01:29-05:00

So what we need is the GIS files associated with the maps referenced in the proclamations. The acreage totals are explicit, suggesting the underlying GIS will calculate exactly the boundaries of the monuments. Do any of you have access to the GIS shape files? They can, essentially, reverse engineer legal descriptions for us.

St

Sent from my iPhone

On Dec 4, 2017, at 5:32 PM, Cally Younger <cyounger@blm.gov> wrote:

Cally Younger | Counsel
Office of the Director
Bureau of Land Management
U.S. Department of the Interior
Direct: [202-208-3027](tel:202-208-3027)
Cell: [202-313-8394](tel:202-313-8394)



Begin forwarded message:

From: Anita Bilbao <abilbao@blm.gov>
Date: December 4, 2017 at 4:16:01 PM EST
To: cyounger@blm.gov
Subject: Fwd: Presidential Proclamation Modifying the Bears Ears National Monument

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Begin forwarded message:

From: Michael Richardson <mjrichardson@blm.gov>
Date: December 4, 2017 at 2:12:58 PM MST
To: Edwin Roberson <eroberso@blm.gov>, Anita Bilbao <abilbao@blm.gov>, Megan Crandall <mcrandal@blm.gov>, Ryan Sutherland <rrsutherland@blm.gov>, Lola Bird <lbird@blm.gov>, aginn@blm.gov
Subject: Fwd: Presidential Proclamation Modifying the Bears Ears National Monument

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Begin forwarded message:

From: Heather Swift <heather_swift@ios.doi.gov>
Date: December 4, 2017 at 2:09:56 PM MST
To: mjrichardson@blm.gov
Subject: Fwd: Presidential Proclamation Modifying the Bears Ears National Monument

Heather Swift
Press Secretary
Department of the Interior

Begin forwarded message:

From: White House Press Office <whitehouse-noreply@messages.whitehouse.gov>
Date: December 4, 2017 at 2:06:41 PM MST
To: <interior_press@ios.doi.gov>
Subject: Presidential Proclamation Modifying the Bears Ears National Monument
Reply-To: <whitehouse-noreply@messages.whitehouse.gov>

THE WHITE HOUSE
Office of the Press Secretary

FOR IMMEDIATE RELEASE

December 4, 2017

MODIFYING THE BEARS EARS NATIONAL MONUMENT

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

In Proclamation 9558 of December 28, 2016, and elsewhere in that proclamation, the President exercised his authority under section 320301 of title 54, United States Code (the "Antiquities Act"), to establish the Bears Ears National Monument in the State of Utah, covering approximately 1.35 million acres of Federal lands for the protection and management of objects of historic and scientific interest identified therein. The monument is managed jointly by the Department of the Interior's Bureau of Land Management and the Department of Agriculture's United States Forest Service (USFS). This proclamation makes certain modifications to the monument.

Proclamation 9558 identifies a long list of objects of historic or scientific interest. It describes cultural objects such as ancient cliff dwellings (including the Moon House, the Hole in the Rock, and the Outlaw Trail), Moki Steps, Native American ceremonial tools and projectile points, remains of single family dwellings, granaries, kivas, towers, large villages, rock shelter, and a prehistoric road system, as well as petroglyphs, pictographs, and recent rock art left by the Ute, Navajo, and Paiute peoples. It also identifies other types of historic objects, such as remnants of Native American sheep herding, sheep farming operations and early engineering by pioneers and settlers, including smoothed sections of rock, dugways, rock cabins, corrals, trails, and inscriptions carved into the Hole in the Rock and Outlaw Trails. It also describes landscape features such as the Bears Ears, Comb Ridge, White Mesa, the Valley of the Gods, the Abajo Mountains, and the Juan River, and paleontological resources such as the remains of fishes, amphibians, reptiles, and mammals, dinosaur trackways and traces of other terrestrial animals. Finally, it identifies several species, including animals such as the porcupine, badger, and coyote; birds like the red-tailed hawk, the Swainson's hawk, and the Swainson's sparrow; and plants like the desert paintbrush, the desert sunflower, and the desert wild rose.

hawk, Mexican spotted owl, American kestrel, and turkeys and plants such as the Fremont cottonwood, Abajo daisy, sandbar willow, and boxelder.

The Antiquities Act requires that any reservation part of a monument be confined to the smallest area consistent with the proper care and management of the objects of scientific interest to be protected. Determining the protective area involves examination of a number of factors including the uniqueness and nature of the objects, the extent of the needed protection, and the protection provided by

Some of the objects Proclamation 9558 identifies as unique to the monument, and some of the particular examples of these objects within the monument are not of significant scientific or historic interest. Moreover, many of the objects Proclamation 9558 identifies were not under threat of destruction before designation such that they required reservation of land to protect them. In fact, objects in Proclamation 9558 were then and still are subject to Federal protections under existing laws and agency management designations. For example, more than 500,000 acres were being managed to maintain, enhance, or protect their natural character before they were designated as part of a national monument. Specifically, the BLM manages approximately 1,000,000 acres of lands within the existing monument as Wilderness Areas, which the BLM is required by law to manage so as not to impair their suitability for future congressional designation as Wilderness. On lands managed by the USFS, 46,348 acres of the congressionally designated Dark Canyon Wilderness, which, under the 1964 Wilderness Act, 16 U.S.C. 1131 et seq., and the Utah Wilderness Act of 1984, Public Law 98-428, the USFS manages so as to maintain or enhance its wilderness character. Approximately 89,396 acres of the USFS lands are also inventoried as 88 inventories of roadless areas, which are managed under the 2001 Roadless Rule so as to protect their wilderness character.

A host of laws enacted after the Antiquities Act provide specific protection for archaeological, historic, cultural, paleontological, and plant and animal resources and grant authority to the BLM and USFS to condition permitted activities on Federal lands, whether within or outside a monument. These laws include the Archaeological Resources Protection Act, 16 U.S.C. 470aa-470mm, National Historic Preservation Act, 16 U.S.C. 300101 et seq., Bald and Golden Eagle Protection Act, 16 U.S.C. 668-668d, Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., Federal Cave Resources Protection Act of 1988, 16 U.S.C. 1781 et seq., and the National Forest Management Act, 16 U.S.C. 1600 et seq.

4301 *et seq.*, Federal Land Policy and Management Act (U.S.C. 1701 *et seq.*, Migratory Bird Treaty Act, 16 U.S.C. 712, National Forest Management Act, 16 U.S.C. 1600 et seq., Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*), and Paleontological Resources Preservation Act, 16 U.S.C. 470aaa-470aaa-11. Of particular note, the Archaeological Resources Protection Act specifically protects archaeological resources from looting or other desecration and imposes criminal penalties for unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources. Federal land management agencies grant a permit authorizing excavation or removal, but only undertaken for the purpose of furthering archaeological knowledge. The Paleontological Resources Preservation Act contains very similar provisions protecting paleontological resources. And the Migratory Bird Treaty Act and Endangered Species Act protect migratory birds and listed endangered and threatened species and their habitats. Moreover, the USFS were already addressing many of the threats to objects identified in Proclamation 9558 in their governing land use plans before designation of the monument.

Given the nature of the objects identified on the land reserved by Proclamation 9558, the lack of a threat of destruction to many of those objects, and the protection those objects already provided by existing law and government land use plans, I find that the area of Federal land reserved for Bears Ears National Monument established by Proclamation 9558 is not confined to the smallest area compatible with the care and management of those objects. The important objects of scientific or historic interest can instead be protected through a smaller and more appropriate reservation of 2 areas: Shash Jáa and Indian Creek. Revising the boundaries of the monument to cover these 2 areas will ensure that, in accordance with the Antiquities Act, it is no larger than necessary for the care and management of the objects to be protected within the monument.

The Shash Jáa area contains the heart of the national monument: the iconic twin buttes known as the Bears Ears that tower 2,000 feet above the surrounding landscape and are considered sacred to the Native American tribes that call this area their ancestral home. Many of the significant objects described by Proclamation 9558 can be found throughout the Shash Jáa area. Ancestral Puebloan occupation of the area dates back to the Basketmaker III period at least 2,500 years ago, as evidenced by behind objects such as pit houses, storage pits, lithic

campsites, rock shelters, pictographs, and baskets, as manos and metates for grinding corn. Occupation during the Basketmaker III period, from approximately 500 to 750 additional evidence of maize and bean based agriculture with pottery, bows and arrows, pit houses, kivas, storage structures and dispersed villages.

New waves of human settlement occurred around 900 A.D. The Pueblo I period gave rise to large villages near 900 and 1050 C.E., when inhabitants from the Pueblo II period expanded and complex multi family dwellings. Around the dawn of the Pueblo III period, the area's inhabitants increasingly sought shelter in cliff dwellings and left evidence of an era of unrest. Several centuries later, Paiute, and Navajo came to occupy the area.

East of the Bears Ears is Arch Canyon, within which paleontologists have found numerous fossils from the Lower and Upper Permian eras. Cliff dwellings are hidden throughout the canyon, and the mouth of the canyon holds the fabled Arch Ruin, which spans the Pueblo II and III periods and contains pictographs and petroglyphs ranging from the Archaic to historic periods.

Just south of Arch Canyon are the north and south Mule Canyons. Five hundred feet deep, 5 miles long, and with alternating layers of red and white sandstone, these striking canyons contain shelter cliff dwellings and archaeological sites, including the scenic and accessible Arch Ruin, which includes differing masonry styles and indicate several episodes of construction and use.

Perched high on the open tablelands above the south Mule Canyon are the Mule Canyon ruins, where visitors can see exposed masonry walls of ancient living quarters and a restored kiva. The deep canyons and towering mesas of the Shash Jáa area are full of similar sites, including rock art of single family dwellings, granaries, kivas, towers (the Cave Towers), and large villages primarily from the Pueblo II and III periods, along with sites from the Basketmaker III and Archaic periods.

The Shash Jáa area also includes Comb Ridge, a north-trending monocline that originates near the boundary of the San Juan National Forest, ends near the San Juan River, and contains remnants from the region's thousands of years of habitation, including cliff dwellings, granaries, kivas,

ceremonial sites, and the Butler Wash ruin, a world famous Ancestral Puebloan ruin with multiple rooms and kivas. Ridge also includes world class examples of ancient rock art such as the Butler Wash Kachina Panel, a wall sized mural of Juan Anthropomorph figures that dates to the Basketmaker III period and is considered to be one of the Southwest's most important petroglyph panels for understanding the daily life and culture of the Basketmaker people. Significant fossil sites have been discovered in Butler Wash.

Just north of upper Butler Wash, the aspen filled Draw contains a series of alcoves that have sheltered human habitation for thousands of years, including the site where Richard Wetherill, as part of the Hyde Expedition in 1893, first identified what we know today as the Basketmaker III people. The nearby Milk Ranch Point is home to a rich concentration of kivas, granaries, dwellings, and other structures that Pueblo I farmers used this area to cultivate corn, beans, and squash.

The Shash Jáa area also contains the Comb Ridge I which includes a trackway created by a giant arthropod (*Diplichnites cuithensis*), the first recorded instance of a trackway in Utah. Also, the diverse landscape of the area provides habitat for the vast majority of plant and animal species described by Proclamation 9558.

Finally, the Shash Jáa area as described on the map includes 2 non contiguous parcels of land that encompass the Moon House Ruin, an example of iconic Pueblo-decorated architecture, which was likely the last occupied site on the mesa, as well as Doll House Ruin, a fully intact and well-preserved single room granary that is associated with an extensive agricultural area on the mesa top. These structures are important examples of cultural resource objects that should remain within the monument's boundaries.

The Indian Creek area likewise contains objects of significance described in Proclamation 9558. At its heart is the broad Indian Creek Canyon, which is characterized by red cliffs and spires of exposed and eroded layers of Kayenta, Wingate, and Cedar Mesa sandstone, including North and South Six Shooter Peaks.

Also located within the Indian Creek area is the Indian Creek Research Center. Spanning lands managed by the National Park Service, BLM, USFS, and private landowners, this unique

partnership works to increase our understanding of the natural systems on the landscape, providing their cust information they need to adapt to the challenges of a Colorado Plateau.

Newspaper Rock, a popular attraction in the Indian Creek area, is a roadside rock art panel that has been listed on the National Register of Historic Places since 1976. This displays a significant concentration of rock art from various periods, etched into Wingate sandstone. The older art is attributed to the Ancestral Puebloan people who inhabited the region for 2,000 years, while the more recent rock art is attributed to the Ute people who still live in the Four Corner area.

In addition to Newspaper Rock, the Indian Creek area contains numerous other significant rock art sites, including distinctive and well preserved petroglyphs in Shay Canyon. The area also provides opportunities for cultural and scientific research and paleontological study. Dinosaur tracks at the bottom of the Shay Canyon stream bed are a unique visual record of the area's distant past. Additional paleontological evidence can be found throughout the Indian Creek area, including vertebrate and invertebrate fossils, primarily in the Chinle Formation. The Indian Creek area also includes 2 prominent mesas, Bridger Jack Mesa and Lavender Mesa, which are relict plant communities, predominantly composed of pinyon-juniper woodland, with small, interspersed sagebrush patches. They exist only on these isolated islands in the desert sea and are generally unaltered by humans. These mesas provide an opportunity for comparative studies of pinyon-juniper and sagebrush communities in other parts of the Colorado Plateau. Additionally, the Indian Creek area includes exposed Chinle Formation, known for abundant fossilized fauna, including pelecypods, gastropods, arthropods, and amphibians, and reptiles (including dinosaurs). The area is well known for vertebrate trackways, including human footprints.

Some of the existing monument's objects, or certain parts of those objects, are not within the monument's revised boundaries because they are adequately protected by other designation, agency policy, or governing land use plan. For example, although the modified boundaries do not include the Colorado River or the Valley of the Gods, both of those areas are protected by existing administratively designated Areas of Critical Environmental Concern. Plant and animal species such as the bighorn sheep, the Kachina daisy, the Utah night

the *Eucosma navojoensis* moth are protected by the Endangered Species Act and existing land use plans and policies for special-status species. Additionally, some of the rare species falls within existing Wilderness Areas and Wilderness Study Areas. Finally, although Hideout Canyon is likely included within the modified boundaries, it is generally threatened and is partially within a Wilderness Study Area.

The areas described above are the smallest compatible with the protection of the important objects identified in Proclamation 9558. The modification of the Bears Ears National Monument will maintain and protect those objects and the area's cultural, scientific, and historic legacy.

WHEREAS, Proclamation 9558 of December 28, 2016, reserved approximately 1.35 million acres of Federal lands for the care and management of the Bears Ears buttes and objects of historic and scientific interest identified above; and

WHEREAS, many of the objects identified by Proclamation 9558 are otherwise protected by Federal law; and

WHEREAS, it is in the public interest to modify the boundaries of the monument to exclude from its designation as a national monument approximately 1,150,860 acres of land that are unnecessary for the care and management of the objects protected within the monument; and

WHEREAS, the boundaries of the monument reservation should therefore be reduced to the smallest area compatible with the protection of the objects of scientific or historic interest described above in this proclamation;

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby order that the boundaries of the Bears Ears National Monument are hereby modified and reduced to those lands and interests owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is made a part of this proclamation. I hereby further proclaim that the modified monument areas identified on the accompanying map shall be known as the Indian Creek and House and Doll House Ruins. These reserved Federal lands and interests in lands cumulatively encompass approximately 1.35 million acres.

acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper management of the objects to be protected. Any lands Proclamation 9558 not within the boundaries identified on the accompanying map are hereby excluded from the monument.

At 9:00 a.m., eastern standard time, on the date specified in the proclamation, subject to all existing rights, the provisions of existing withdrawal requirements of applicable law, the public and National System lands excluded from the monument reservation shall be subject to:

- (1) entry, location, selection, sale, or other disposition under the public land laws and as applicable to the U.S. Forest Service;
- (2) disposition under all laws relating to geothermal leasing; and
- (3) location, entry, and patent under the mineral laws.

Appropriation of lands under the mining laws before and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 43 U.S.C. 382, shall vest no rights against the United States. The Acts required to establish a location and to initiate possession are governed by State law where not in conflict with Federal law.

Nothing in this proclamation shall be construed to remove any lands from the Manti La Sal National Forest or to revoke, modify, or affect any withdrawal, reservation, or appropriation, other than the one created by Proclamation 9558.

Nothing in this proclamation shall change the manner in which the areas designated and reserved by Proclamation 9558 remain part of the monument in accordance with the terms of this proclamation, except as provided by the following provisions.

In recognition of the importance of tribal participation in the care and management of the objects identified above, the proclamation provides that management decisions affecting the monument shall ensure that management decisions affecting the monument take into account tribal expertise and traditional and historical knowledge. Proclamation 9558 established a Commission to provide recommendations on the development and implementation of management plans and on management of the monument, as

partner with Federal agencies by making continuing co-
to inform decisions regarding the management of the m-
order to ensure that the full range of tribal expertise
traditional historical knowledge is included in such c-
recommendations, paragraph 29 of Proclamation 9558 is
revised to provide that the Bears Ears Commission sha-
as the Shash Jáa Commission, shall apply only to the s-
unit as described herein, and shall also include the e-
officer of the San Juan County Commission representin-
acting in that officer's official capacity.

Proclamation 9558 is hereby revised to clarify th-
preparation of the transportation plan required by pa-
thereof, the Secretaries of the Interior and Agricultu-
allow motorized and non mechanized vehicle use on roa-
trails designated for such use immediately before the
Proclamation 9558 and maintain roads and trails for si-

Paragraph 35 of Proclamation 9558 governing live-
grazing in the monument is hereby revised to read as :
"Nothing in this proclamation shall be deemed to affect
authorizations for livestock grazing, or administrativ-
on Federal lands within the monument. Livestock graz-
the monument shall continue to be governed by laws and
regulations other than this proclamation."

Proclamation 9558 is amended to clarify that, co-
with the care and management of the objects identified
Secretaries of the Interior and Agriculture may autho-
ecological restoration and active vegetation manager-
activities in the monument.

If any provision of this proclamation, including
application to a particular parcel of land, is held to
invalid, the remainder of this proclamation and its ap-
to other parcels of land shall not be affected thereby.

IN WITNESS WHEREOF, I have hereunto set my hand t
fourth day of December, in the year of our Lord
two thousand seventeen, and of the Independence of the
United States of America the two hundred and forty sec-

DONALD J. TRUMP

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